

ITEM 9-A

CITY OF ALAMEDA

Memorandum

To: Honorable President and
Members of the Planning Board

From: Simone Wolter
Planner

Date: September 26, 2011

Re: **PLN09-0158 - Charnel James - 625 W Ranger** - The applicant requests revisions to the conditions of approval granted at the Zoning Administrator hearing on August 16, 2011

BACKGROUND

On August 26, 2011 the Zoning Administrator approved a Interim Use Permit Amendment (PLN09-0158) to the existing Interim Use Permit PLN10-0026 for the operation of a wireless telecommunications device and Design Review for associated appurtenances.

On August 26, 2011 the applicant submitted an appeal on the conditions of approval. Staff recommends partial amendments to the approved conditions of approval.



In 2000 the City of Alameda approved an Interim Use Permit (UP00-13) and Design Review (DR00-65) for the construction of a monopole and associated generators, conduits, and cabinets within a fenced-in area on the parking lot adjacent to the Alameda Point Collaborative.

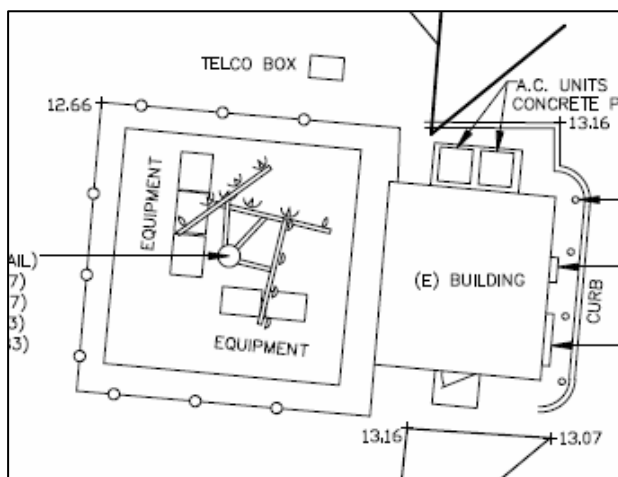
This Interim Use Permit remained in effect until 2010, at which point it was extended to run another 10 years until 2020 (PLN10-0026), or until redevelopment would occur at this site, whichever is sooner. All Interim Use Permits at Alameda Point are limited to a 10 year period, or less, should redevelopment occur. The Interim Use Permits are regulated by the Alameda Municipal Code 30-14.7 and any and all leases procured for this area, are subject to the Interim Leasing Plan of the City of Alameda for Alameda Point.

The monopole is owned and operated by the American Tower Corporation (TowerCo), which leases the area from Alameda Point. Several wireless and cellular providers lease areas with within the TowerCo lease area on the ground and on the monopole, amongst them Verizon Wireless.

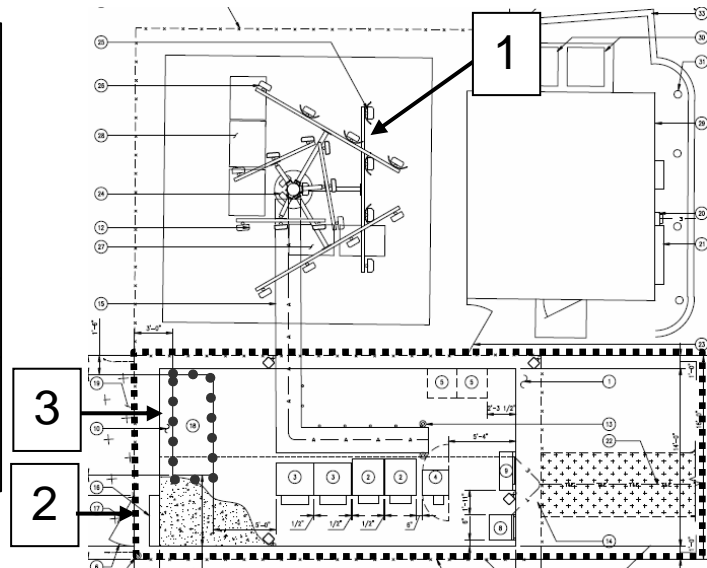
In 2009 the applicant, Verizon Wireless, submitted an application for Design Review and a Use Permit (PLN09-0158) to construct a monopole at another location at Alameda Point. After lengthy and unsuccessful negotiations with the Navy, the applicant revised the application to add capacity on the existing monopole at 625 W Ranger by adding:

1. Nine panels and global positioning system units distributed across three sectors at 102.9' on the pole.
2. New equipment storage area (16' X 32') surrounded by a new 6' fence
3. New 30 KW diesel generator with a 132 gallon fuel tank.

EXISTING CONDITIONS



PROPOSED CONDITIONS



This project would add capacity to the existing Verizon services at the Point. The stand-by generator would allow for an independent power source, should the power source through Alameda Municipal Power fail during an emergency or catastrophe.

At the Zoning Administrator hearing on August 16th, 2011, the Zoning Administrator approved the project with conditions of approval, some of which are standard conditions for Interim Use Permits at Alameda Point.

Upon approval by the Zoning Administrator, the applicant appealed the conditions applied to the project. A discussion of the appealed conditions will follow.

STAFF ANALYSIS

The following is an analysis of the existing conditions of approval as granted on August 16, 2011 and the requested changes as proposed by the applicant. The

'Proposed Language' will contain the proposed condition identifying the changes with an underline.

#1 Original Condition	Term: This Interim Use Permit is valid for the extent of the lease with ARRA or ten years after the date of approval (April 6, 2020), whichever occurs first. Subject to AARA approval, the applicant may request a new Interim Use Permit in 2020.
#1 Appeal	<i>The date of approval should be 8/26/2011 and therefore 10 years would be 8/26/2021. Verizon Wireless requested that the language in the condition match the actual approval dates and tentative end of the term date.</i>
#1 Staff Position	<p>Interim Use Permits, as subject to the Interim Lease Program, and as regulated under the Zoning Regulations of the Alameda Municipal Code, are valid for 10 years, or less, if redevelopment occurs. The 'Master' Interim Use Permit UP00-13, and as amended under PLN10-0026, is valid until April 6, 2010. Once PLN10-0026 become void (after April 6, 2020 unless amended), the subsequent amendment for the added lease area for Verizon Wireless (PLN09-0158) would also become void. Therefore, staff has limited the time span for this Interim Use Permit to match the 'Master' Interim Use Permit.</p> <p>All Use Permits become effective on the date of the hearing at which action is taken by the hearing body. In this case, the project was approved on August 16, 2011. The 10-day appeal period that follows an action, as required pursuant to the Alameda Municipal Code, does not affect the approval date.</p> <p>Staff recommends no changes to this condition of approval.</p>
#1 Proposed Language	Term: This <u>Interim</u> Use Permit is valid for the extent of the lease with ARRA or ten years after the date of approval (April 6, 2020), whichever occurs first. Subject to AARA approval, the applicant may request a new Interim Use Permit in 2020.
#2 Original Condition	Limitation of Use: This Use Permit is for the operation of a telecommunications tower on an existing monopole and building with electrical equipment. The use would generate no employees or customers, and a maximum of two truck trips per month.
#2 Appeal	<i>[...] Verizon feels that it should say a telecommunications facility on the monopole. [...] Limitation of trucks per month. During construction there will certainly be more trucks, and occasionally there might be an instance where more than one truck will be needed, or Verizon Wireless will exceed two visits a month because of an emergency.</i>
#2 Staff Position	Staff can support the changes and agrees that the wording can be changed to the requested language to be more specific.

#2 Proposed Language	Limitation of Use: This <u>Interim</u> Use Permit <u>is</u> for the operation of an unmanned wireless telecommunications facility on a monopole with supporting radio and electrical equipment. The use would generate no employees or customers, and an average of two trucks a month except during construction and <u>an</u> emergency or disaster.
No changes to Conditions 3 & 4	
#5 Original Condition	Leasing Area: The applicant shall have completed and signed a lease area amendment to the leasing agreement for this location with Staff from Community Development Department, formerly Development Services Department prior to submittal for building permits.
#5 Appeal	<i>Verizon Wireless is subleasing from TowerCo, and TowerCo has already negotiated and signed a lease with the City for the additional space. Verizon Wireless can legally not lease the same area from the City that the City has already assigned to TowerCo in its negotiations. Therefore, we ask that this condition be removed in its entirety or change the language to accurately identify the entity signing the agreement with the City.</i>
#5 Staff Position	At the time of writing the Zoning Administrator report, it was staff's understanding that this step had not been fully executed between the applicant (whether that be Verizon Wireless or TowerCo), so that this condition was inserted as a measure to ensure that the lease area amendment was completed prior to submitting the building permits. Staff can support amending this condition to adequately identify the leasee.
#5 Proposed Language	Leasing Area: <u>TowerCo</u> shall have completed and signed a lease area amendment to the leasing agreement for this location with Staff from Community Development Department, formerly Development Services Department prior to submittal for building permits.
No changes to 6a through 6e and 6g through 6i	

#6f Original Condition	Signal Interference: The permittee must guarantee that the proposed wireless service at the above location will not interfere with the operation of the City's 800 MHZ communication system or the 928/952 MHZ System Control and Data Acquisition (SCADA) System. The permittee must agree to reimburse the City for all costs to locate and correct interference, if it is traced back to the permittee's site.
#6f Appeal	<i>Verizon Wireless requests that this condition be altered to read: Signal Interference: The permittee must provide a radio frequency study, indicating that the proposed wireless service of permittee at the above location will not interfere with the current operation of the City's 800 MHZ communication system or the current operation of the 928/952 MHZ System Control and Data Acquisition (SCADA) System. The permittee must agree to reimburse the City for all costs to locate and correct any unlawful interference cause by permittee's site.</i>
#6f Public Works Staff Position	Staff can support this change.
#6f Proposed Language	Signal Interference: <u>The permittee must provide a radio frequency study, indicating that the proposed wireless service of permittee at the above location will not interfere with the current operation of the City's 800 MHZ communication system or the current operation of the 928/952 MHZ System Control and Data Acquisition (SCADA) System. The permittee must agree to reimburse the City for all costs to locate and correct any unlawful interference cause by permittee's site.</u>
No changes to Condition 7	
#8 Original Condition	Least Tern: Employees of the applicant shall be prohibited from entering wetlands areas or endangered species habitat areas, particularly the California Least Tern habitat southwest of building 25. Interim users shall post information, to be provided by AARA, regarding the value of the habitat areas on the base, the reasons for restrictions on human activity, and shall cooperate in educational programs on these subjects.
#8 Appeal	<i>This condition should be removed as it does not apply to our site. This area is a significant distance from the Least Tern habitat and that it is highly unlikely that construction or maintenance staff will be anywhere near this location.</i>
#8 Staff Position	This is a standard condition applied to all Interim Use Permits at Alameda Point and therefore will remain on the Use Permit. It also serves as general education raising awareness for a

	protected species on Alameda Point. Staff retains this condition in its original format.
#8 Proposed Language	Least Tern: Employees of the applicant shall be prohibited from entering wetlands areas or endangered species habitat areas, particularly the California Least Tern habitat southwest of building 25. Interim users shall post information, to be provided by AARA, regarding the value of the habitat areas on the base, the reasons for restrictions on human activity, and shall cooperate in educational programs on these subjects.
#9 Original Condition	Revocation: This Use Permit may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.
#9 Appeal	<i>Verizon Wireless requests that this wording be changed to reflect the actual wording of the statute. The Condition should read: Revocation: In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed conditions of approval, the City of Planning Board may, after notice and hearing, revoke any use permit.</i>
#9 City Attorney Position	Staff concurs to reflect the statute as stated in the Alameda Municipal Code.
#9 Proposed Language	Revocation. <u>In the event of a violation of any of the provisions of the zoning regulations, or in the event of a failure to comply with any prescribed condition of approval, the City Planning Board may, after notice and hearing, revoke any use permit.</u>

#10 Original Condition	Indemnification: The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
#10 Appeal	<i>Verizon Wireless is asking to add to the end of the condition "at the City's sole cost and expense."</i>
#10 City Attorney Position	Staff cannot recommend the requested language, as this is a standard condition of approval applied to all development projects approved by the City of Alameda.
#10 Proposed Language	The indemnification language will remain as stated.

FINDINGS

- 1. The interim use is approved for a limited time, not to exceed the maximum time frame set forth in the interim leading program criteria.**

The Use Permit governing the operation of a monopole at this location PLN10-0026, and by reference UP00-13 and DR-00-65 is approved for a maximum term of no more than ten (10) years.

- 2. The interim use utilizes existing facilities and does not require substantial new development.**

The applicants propose to expand the existing facilities at this site. The applicant will add a 16x32' fenced area to contain an emergency power generator, diesel tank, and equipment cabinets for the wireless facilities. The height of the 100' monopole will not be increased. However, 9 new panel antennas will be added to the monopole. According to the original approval (PB-00-54), this project utilizes a type of monopole can be disassembled, relocated, and reassembled; and repurposed a former Navy building and electrical equipment on the site.

- 3. The interim use will not disrupt on-going operations of the government entity should the interim use occur concurrent with continuing operations by the government entity.**

On July 27, 2011 the Navy staff have approved the project. Furthermore, all military use at the former Navy base has ceased and there are no additional government activities that that would be disrupted by the proposed use.

- 4. The interim use will not be detrimental to the ultimate redevelopment of the property or the potential resumption of use of the property by the government entity.**

All structures are of a temporary nature and can be removed at the onset of redevelopment. Therefore, the project would not restrict future redevelopment of the property.

- 5. The interim use is consistent with an interim-leasing program adopted by the City.**

Conditions established for interim leases have been applied to the project. This Use Permit is proposed for an interim basis.

ENVIRONMENTAL REVIEW

This project is categorically exempt from State CEQA Guidelines, Section 15301(b) - Existing Facilities.

PUBLIC NOTICE

A notice for the Appeal before the Planning Board hearing was mailed to property owners and residents within 300 feet of the site, published in local newspapers and posted in public areas near the subject property. The project was also noticed as stated above for the Zoning Administrator hearing on August 4, 2011.

RECOMMENDATION

Uphold staff's approval with amended conditions of approval and find the project categorically exempt from CEQA and approve Use Permit PLN09-0158.

RESPECTFULLY SUBMITTED BY:



SIMONE WOLTER
PLANNER II

MARGARET KAVANAUGH LYNCH
PLANNING SERVICES MANAGER

Attachments:

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3. Zoning Administrator Staff Report & Resolution
4. Navy Approval Letter
5. Site Plan